



Appeal Decision

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Appeal Against: 2019/A0242
Location: 19 West End Park Derry City
Claim by: Green Homes NI (Ltd)
Claim Against: Derry City and Strabane City Council
Decision by: Commissioner Helen Fitzsimons 16th July 2021

Decision

1. The award of costs is denied.

Reasons

2. Paragraph 12 of the Commission's Costs Award Guidance states that the Commission will normally award costs only where all of four stated conditions are met. The stated conditions are as follows:-
 - The claim relates to a relevant type of appeal
 - The claim is timely;
 - The party against whom the award is sought has acted unreasonably; and
 - The unreasonable behaviour has caused the party claiming costs to incur unnecessary or wasted expense
3. The claimant submitted the costs award claim for this appeal under Section 58 of the 2011 Planning Act, one of the types of appeal for which a costs claim can be made. As the claim was submitted with the written statement for the appeal to which it relates it was submitted in a timely manner and the first two conditions are met.
4. The claimant argues that the respondent had acted unreasonably in taking its decision to refuse the appeal proposal without providing persuasive evidence to substantiate its reason for refusal on car parking. This in turn has caused the claimant to incur wasted expense.
5. The Council's Planning Committee is entirely within its rights to take a planning decision whether it agrees with the advice of its Planning Officials or not. What weight it gives to material considerations before it is for the Planning Committee to decide. The decision notice relating to the appeal states clearly states the reasons for planning permission being withheld. The claimant took the decision to lodge an appeal against the respondent's decision. There can be no certainties regarding the outcome of either an application for planning permission or a subsequent appeal. The related appeal was appeal was dismissed. The costs incurred by the claimant are no more than what would be expected in lodging an appeal with the Commission.

6. There has been no unreasonable behaviour leading to a wasted expense.

COMMISSIONER HELEN FITZSIMONS

2019/A0149

Documents

Claimant:- Statement of Case C1

Respondent:- Response R1

2019/A0242